

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,
1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH-4

PRESIDED BY SHRI. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN

Dated 29th DAY OF DECEMBER 2023

COMPLAINT No: CMP/ 210818/0008253

COMPLAINANT..

MADHAN
NO; 49, RAMANI NIVAS
12th CROSS, EJIPURA
MAIN ROAD
VIVEKNAGAR
BENGALURU URBAN-560047

(REP. BY LAKSHMI R
ADVOCATE)

V/s

RESPONDENT....

M/S UNISHIRE HOUSING LLP
36, KUMARA PARK WEST
RAILWAY PARALLEL ROAD
BENGALURU URBAN-560020

(ABSENT)

PROJECT NAME:

INDIRA ELAN

JUDGEMENT

1. This complaint is filed under section 31 of Real Estate (Regulation and Development) Act, 2016 against the project "INDIRA ELAN" developed by " M/s UNISHIRE HOUSING LLP" for the relief of refund of booking amount paid along with interest.
2. This project is not registered in RERA.

6/13/23

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3. The promoter has developed this project in the limits of property bearing Corporation No.38/85/2, 85/2, 85/3B, 85/4 Ward no.06, Rachenahalli Bengaluru.
4. The gist of the complaint is that the complainant had booked a flat bearing no. D402 in the project "INDIRA ELAN" of the respondent for a total sale consideration of Rs.40,16,240/- (Rs. Forty lakhs sixteen thousand two hundred forty only). The complainant has paid an advance amount Rs.1,00,000/- on 21/12/2014 and Rs. 6,91,464 on 30/3/2015 altogether Rs.7,91,464/- (Rs.Seven lakhs ninety one thousand four hundred sixty four only) towards booking amount of the aforesaid flat which has been duly acknowledged by the respondent. It is contended that the respondent has till date not started construction of the said project. After repeated follow-ups, the complainant sought for the refund of the booking amount. Even though the respondent has agreed to refund the amount but failed to refund. Therefore, the complainant has approached this forum seeking for the relief of direction to the respondent to refund the booking amount paid along with interest. Hence, this complaint.
5. After registration of the complaint, in pursuance of the notice, the respondent has not appeared before this Authority during the hearings held on 20/9/2022, 13/10/2022, 31/10/2022, 16/11/2022, 2/12/2022, 19/12/2022, 30/1/2023, 22/2/2023, 27/3/2023, 26/4/2023, 7/6/2023, 6/7/2023, 7/8/2023 and finally on 8/9/2023 and has been continuously remained absent on all the aforesaid dates of hearings. Subsequently, the respondent has not put forth his grievances before this Authority and has not taken any interest to



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file statement of objections, producing documents if any on its defence. .

6. In support of his claim, the complainant has produced documents such as (1) copy of email communication and payment details (2) advance amount paid challan (3) allotment letter (4) memo of calculation

7. In support of his defence, the respondent has not produced any documents on his behalf.

8. Heard arguments of the complainant.

9. On the above averments, the following points would arise for my consideration:-

1. Whether the complainant is entitled for the relief claimed?
2. What order?

10. **Findings on the above points are as under:-**

1. In the Affirmative.
2. As per final order for the following:

FINDINGS

11. Findings on point No.1:- The complainant has approached this forum seeking for the relief of refund of booking amount paid along with interest. The grounds urged are that the complainant has booked a unit/ flat no.D402 situated in the project known as "INDIRA ELAN" of the respondent-promoter for a total sale consideration of Rs.40,16,240/- Rs. Forty lakhs sixteen thousand two hundred forty only). It is contended that the construction activity was stalled and there is no



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significant activity taken up by the respondent to complete the project. Therefore, he has sent an email dated 8/10/2016 asking the respondent to cancel the booking of the flat and to refund the booking amount. Even though the respondent has agreed to refund the amount but failed to refund the same till date despite repeated follow ups.

12. From the materials placed on record, it is apparent from the payment receipts that the complainant has paid an amount of Rs.1,00,000/- on 21/12/2014 and Rs.6,91,464/- on 30/1/2015 altogether Rs.7,91,464/- (Rs. Four lakhs only) towards booking amount in respect of flat no. D-0402 in the project "INDIRA ELAN" which has been duly acknowledged by the respondent. However, this issue is not related to delay but the complainant seeking withdrawal of the amount since the respondent is yet to start construction activity and has failed to complete the project till date. Therefore, it is just and necessary to direct the respondent to refund the booking amount paid along with interest. The complainant has filed memo of calculation dated 3/11/2022 claiming an amount of Rs.13,95,497/- (Rs. Thirteen lakhs ninety five thousand four hundred ninety seven only) from 21/12/2014 till 3/11/2022. The respondent-builder has not produced any memo of calculation in spite of sufficient opportunities given to him.

13. Therefore, it is incumbent upon the respondent to pay refund of booking amount paid along with interest to the complainants which is determined as below:

MEMO OF CALCULATION DATED 3/11/2022

PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2 + I3) AS ON 3/11/2022	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
7,91,464	6,04,033	0	13,95,497

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14. Despite of several notices served upon the respondent, he did not appear before this Authority and has been continuously remained absent on all the aforesaid dates of hearings. Subsequently, he has failed to file statement of objections and furnishing documents in support of his defence and hence not contested the matter. In the absence of any resistance by the respondent and considering the claim of the complainant which is corroborated with the documentary evidence, there is no option left to this Authority except to accept the claim of the complainant.

15. Having regards to all these aspects, the complainant is entitled for refund of booking amount paid along with interest. Accordingly, the point raised above is answered in the Affirmative.

16. On going through the records, it is noticed that the project known as "INDIRA ELAN" has not been registered in RERA. At this stage, it is just and appropriate to give directions to the respondent to register the project "INDIRA ELAN" immediately as required under section 3 of the RERA Act.

17. Findings on point no.2: In view of the above discussion, the complaint deserves to be allowed. Hence, I proceed to pass the following:

ORDER

In exercise of the powers conferred under section 31 of the Real Estate Regulation and Development) Act, 2016, the complaint bearing No.**CMP/UR/210818/0008253** is hereby allowed.

1. The respondent is hereby directed to pay a sum of Rs.13,95,497 (Rs. Thirteen lakhs ninety five thousand four hundred ninety seven only) towards booking amount along with interest to the complainant **within**



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60 days from the date of this order calculated at the rate of 9% from 21/12/2014 till 30/4/2017. Further, at the rate of SBI MCLR + 2% from 1/5/2017 till 3/11/2022.

2. The interest due from 4/11/2022 shall be calculated likewise and paid to the complainant till the date of entire realization.
3. The respondent is hereby directed to register the project "INDIRA ELAN" as required under section 3 of the RERA Act.
4. The complainant is at liberty to enforce this order in accordance with law if the respondent fails to comply with the same.

No order as to costs.


(H.C. Kishore Chandra)

Chairman
K-RERA